



Meister Seelig & Fein LLP

Ilana Haramati
Of Counsel
Direct (646) 860-3130
Fax (212) 655-3535
ih@msf-law.com

August 2, 2021

VIA ECF

Hon. Paul A. Engelmayer
United States District Court Judge
United States Courthouse
40 Foley Square
Courtroom 1305
New York, New York 10007

Re: *United States v. David Binet*, No. 19 Cr. 824 (PAE)

Dear Judge Engelmayer:

We represent David Binet in the above-captioned case. Although the Court denied Mr. Binet's request for a two-month adjournment of his August 3, 2021 date to report to the federal Bureau of Prisons' ("BOP") designated facility, (ECF Doc. 74), we write to request a brief two-day adjournment of Mr. Binet's report date to permit him to obtain a one-shot Covid-19 vaccine prior to his surrender.

As noted in our prior submissions, (ECF Docs. 69, 71), Mr. Binet has been hesitant to get vaccinated against Covid-19 based on his concerns about the vaccine's side effects—his family members with preexisting health conditions similar to Mr. Binet's suffered worrisome medical consequences following vaccination. However, now that he will be imminently reporting to prison, it is imperative that he receive his vaccination.¹ As the Court is aware, because of Mr. Binet's severe heart condition, the elevated risk of contracting Covid-19 while incarcerated places him in mortal danger. (*See* David Binet Sentencing Mem., ECF Doc. 53 at 25-25 (Nov. 30, 2020).) The Court recognized as much in sentencing Mr. Binet. *See* Sentencing Tr. 21:3-9 (Dec. 14, 2020) ("the risk from COVID is likely to persist in this country in general and our prisons in particular for some time even after the pandemic abates and even for people who have been vaccinated, and there probably will be heightened restrictions in prison for some time to come. And your heart condition in particular puts you at heightened risk.").

Mr. Binet's vaccination is particularly important at this moment as the Covid-19 Delta variant is fueling a renewed surge in cases throughout the country. *See* Charlie Smart, "Where People Are Most Vulnerable to the Delta Variant," *New York Times* (July 29, 2021) ("the Delta variant is more contagious" than prior variants, meaning that "much of the country is still

¹ Admittedly, it may have been wise for him to receive a Covid-19 vaccine earlier in the nation's vaccination campaign, that does not alter the potentially life-saving significance of Mr. Binet's receiving a vaccine prior to his reporting to his designated BOP facility.

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susceptible to the kind of rapid spread that can put stress on hospitals and lead to worse outcomes for patients.”).² Indeed, FCI Otisville, Mr. Binet’s designated facility, is experiencing a current outbreak, with two confirmed cases reported as of today.³ Mr. Binet’s best means of protecting himself is through vaccination. *See* Smart, “Where People Are Most Vulnerable to the Delta Variant,” *New York Times* (“The best protection for every community, experts say, is to continue to vaccinate as many people as possible.”). While we again concede that Mr. Binet should have taken care of this earlier, we respectfully request the Court’s indulgence for this brief and final, 48-hour, adjournment to permit him to receive the life-saving protection of vaccination (and recover from any side effects) in advance of his reporting to custody.

We have conferred with counsel for the government, who advised us that the government intends to oppose this request.

Respectfully Submitted,

/s/ IH

Henry E. Mazurek

Ilana Haramati

Counsel for Defendant David Binet

cc: Counsel of Record (*via ECF*)

GRANTED. The Clerk of Court is requested to terminate the motion at Dkt. No. 75.

SO ORDERED.

8/3/2021



PAUL A. ENGLMAYER
United States District Judge

² Available at: https://www.nytimes.com/interactive/2021/07/29/us/delta-variant-risk-map.html?name=stylncoronavirus®ion=TOP_BANNER&block=storyline_menu_recirc&action=click&pgtype=Interactive&variant=1_Show&is_new=false.

³ *See* <https://www.bop.gov/coronavirus/>, last visited Aug. 2, 2021.